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L A W Y E R S

E-Filed on  
September 4, 2009

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:

USA Commercial Mortgage Company,

USA Capital Realty Advisors, LLC,<sup>1</sup>

USA Capital Diversified Trust Deed Fund,  
LLC,

USA Capital First Trust Deed Fund, LLC,<sup>2</sup>

USA Securities, LLC,<sup>3</sup>

Debtors.

**Affects:**

- ☐ All Debtors  
☒ USA Commercial Mortgage Company  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed Fund, LLC  
☐ USA Capital First Trust Deed Fund, LLC  
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR<sup>1</sup>  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR<sup>2</sup>  
Case No. BK-S-06-10729-LBR<sup>3</sup>

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**DECLARATION OF EDWARD M.  
BURR IN SUPPORT OF MOTION  
TO FURTHER EXTEND DEADLINE  
TO FILE OBJECTION TO  
ALLOWANCE OF CLAIMS; AND  
CERTIFICATE OF SERVICE**

Date: October 5, 2009  
Time: 9:30 a.m.

I Edward M. Burr, hereby declare under penalty of perjury that:

I am a principal with Sierra Consulting Group, LLC ("Sierra").

<sup>1</sup> This bankruptcy case was closed on September 23, 2008.

<sup>2</sup> This bankruptcy case was closed on October 12, 2007.

<sup>3</sup> This bankruptcy case was closed on December 26, 2007.

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1 I submit this declaration on behalf of the Motion to Further Extend Deadline to File  
2 Objection to Allowance of Claims (the “Motion”) [DE 7474] filed by the USACM  
3 Liquidating Trust (the “USACM Trust”), as successor to USA Commercial Mortgage  
4 Company (“USACM”).

5 Sierra previously served as financial adviser to the Official Committee of  
6 Unsecured Creditors of USA Commercial Mortgage Company (“Committee”).

7 I assisted the Committee in analyzing facts concerning these jointly administered  
8 bankruptcy cases, including scheduled liabilities and proofs of claim. The Committee  
9 ceased to exist on March 12, 2007, the Effective Date of the Debtors’ Third Amended  
10 Joint Chapter 11 Plan of Reorganization (“Plan”), and I am now assisting the USACM  
11 Liquidating Trust (“USACM Trust”) created under the Plan.

12 I make the following declaration based upon my personal knowledge, and upon the  
13 records of the Debtors and the USACM Trust described in this declaration.

14 I understand that under the Plan as modified by the Confirmation Order, the  
15 deadline for interested parties to object to Allowance of Claims and Equity Interests was  
16 90 days after the Effective Date, or June 10, 2007. That deadline was further extended to  
17 October 9, 2007 by a June 29, 2007 order [DE 4097] after a hearing held on June 22, 2007.  
18 The deadline was further extended to October 15, 2007 by a bridge order that was  
19 approved at a hearing held on August 23, 2007 [DE 4625]. On October 11, 2007, the  
20 Court entered an order [DE 4971] extending the deadline to February 12, 2008. On  
21 January 22, 2008, the Court entered an order [DE 5709] extending the deadline to June 12,  
22 2008. On May 13, 2008, the Court entered an order [DE 6347] extending the deadline to  
23 October 10, 2008. On December 2, 2008, the Court entered an Order [DE 6636]  
24 extending the deadline to February 9, 2009. On February 19, 2009, this Court entered an  
25 order [DE 6843] extending the deadline to June 9, 2009. On May 7, 2009 entered an order  
26 [DE 7105] extending the deadline to October 7, 2009.

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To date there have been filed:

- seven administrative claims totaling \$2,016,499 — there are no unresolved administrative claims;
  - 100 priority claims totaling \$6,975,181 — there is one unresolved priority claim for \$32,844;
  - 1668 secured claims filed totaling \$290,860,033 — all secured claims are resolved or have been converted to unsecured claims;
  - 1,241 unsecured claims totaling \$635,814,820 — as of August 31, 2009, there were \$317,343,683 unresolved unsecured claims remaining; and
  - 69 unknown claims totaling \$316,496 — all unknown claims have been resolved or objected to.
  - Two objections to the status of an administrative claim for \$62,496 that have been sustained, resulting in the claims being reclassified as unsecured.
- There are no unresolved administrative claims.
- Objections to 76 priority claims that have been sustained and reclassified as unsecured in aggregate of \$5,122,367. There is one unresolved alleged priority claim remaining for \$32,844. The Trust will be requesting that the Court hold a status conference on that matter on October 5, 2009.
  - Objections to 1,659 secured claims that have been sustained and reclassified as unsecured (subject to potential further objection) in the aggregate amount of \$289,967,960. There are no unresolved secured claims that assert liens on assets owned by the Trust.<sup>4</sup>

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<sup>4</sup> Unfortunately, numerous direct loans secured by borrower property have not been resolved.

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- 1           • As of August 31, 2009, \$178,660,053 in unsecured claims have been  
2           allowed and \$451,058,963 have been disallowed, leaving a total of  
3           \$317,343,683 in unresolved unsecured claims.
- 4           • Objections to 81 “wrong debtor” claims, in the aggregate amount of  
5           \$13,584,227, were sustained. The Trust believes that it has made all of the  
6           available “wrong debtor” objections.
- 7           • Objections to 153 claims for lack of documentation in the amount of  
8           \$21,147,974; 150 objections have been sustained totaling \$20,262,921, and 3  
9           objections totaling \$885,053 remain to be heard by the Court on October 5,  
10          2009. There are a few objections for lack of documentation, but all known  
11          lack of documentation objections are expected to be filed before the Court  
12          hears this motion on October 5, 2009.
- 13          • Objections to 47 claims based on miscellaneous grounds in the amount of  
14          \$87,974,170. Eighteen of these objections have been sustained totaling  
15          \$53,081,903; thirteen objections have stipulated withdrawals totaling  
16          \$13,866,574; three claims totaling \$14,270,528 have been partially allowed  
17          in the amount of \$12,458,662, with the remaining balance of \$1,811,866  
18          disallowed. Thirteen objections totaling \$6,755,165 remain unresolved.
- 19          • A total of 1,163 objections to Direct Lenders’ claims in the amount of  
20          \$84,861,983, principally on loans paid in full by the borrowers. The Court  
21          has sustained these objections or the claimants have agreed that they are not  
22          making a claim based upon the paid loan in question.
- 23          • A stipulation has been executed and an order signed which provides for the  
24          disallowance of the Spectrum and Weddell proofs of claim in the amount of  
25          \$125,000,000.
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- Thirty-two objections to claims based on the Palm Terrace lawsuit totaling \$64,000,000; of which 31 claims have been disallowed in their entirety and one claim was deemed partially allowed in the amount of \$50,000 with the remaining portion of the claim disallowed. Thus, \$63,950,000 of the Palm Terrace Claims have been disallowed.
- Thirty-one objections to claims totaling \$2,564,293 based on investments in the 3685 San Fernando Road Partners loan have been sustained, and orders are pending.
- 221 objections to claims totaling \$12,610,791 based on investments in the Bay Pompano Beach loan and orders are pending.

The Trust prosecuted objections to claims, including the Loans known as Opaque Mt Edge \$7,350,000; HFA Riviera; HFA Riviera 2<sup>nd</sup>; Hasley Canyon; Fiesta Beaumont \$2.4 million; Ashby Financial Company \$7,200,000; Glendale Tower Partners, LLC; Golden State Investments II; 5252 Orange, LLC; Midvale Market Place, LLC; Urban Housing Alliance – 435 Lofts Loan; Boise/Gowen 93, LLC; LCG Gilroy, LLC; J Jireh's Corporation; One Point Street, LLC – HFA North Yonkers; Goss Road Loan; Elizabeth May Real Estate Loan; Slade Development; Wasco Investments, LLC; I-40 Gateway West, LLC 2nd; Cottonwood Hills, LLC; Standard Property Development, LLC; Meadow Creek Partners; I-40 Gateway West; Gateway Stone; Palm Springs Marquis Hotel; Roam Development; Del Valle Isleton; Preserve at Galleria; and Copper Sage Commerce I. The Trust has other adversary proceedings pending that constitute claims objections.

Further, as the Trust has received information from claimants, it has entered into stipulations for the allowance and disallowance of priority and unsecured claims. Conversely, some claimants have stipulated to either withdraw their claims or have them reclassified as unsecured claims upon discussion with the USACM Trust's counsel.

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1 Not all of the claims objections can be resolved through motions. The Court has  
2 ordered that the Trust's objection to claim 1366 of Los Valles Land & Golf, LLC be  
3 consolidated with a related adversary proceeding filed by the Trust against Los Valles and  
4 its guarantor, Dan S. Palmer, Jr.

5 USACM Trust has 99 direct lender loans on record for which investors have filed a  
6 proof of claim asserting money owed. To date USACM Trust has objected to proofs of  
7 claims based on 27 of these loans for having been repaid in full. There are 3 additional  
8 paid in full loans that also have amounts scheduled for unremitted principal. USACM  
9 Trust has objected to the proofs of claims based on these loans, USACM Trust has  
10 objected to the difference between the amount asserted on the proof of claim and the  
11 predetermined amount allowed as an unsecured claim for the subject loan. There will be  
12 an additional 69 direct lender loans outstanding after these loans are resolved, the majority  
13 of these loans are being serviced by Compass Financial. USACM Trust has been unable  
14 to obtain the status of these outstanding loans from Compass Financial.

15 I make this declaration under penalty of perjury of the laws of the United States of  
16 America on September 4, 2009.

17 By /s/ Edward M. Burr  
18 Edward M. Burr  
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Copy of the foregoing served on  
September 4, 2009, via e-mail or first  
class postage prepaid U.S. Mail to all  
parties listed on the Post Effective Date  
Service List on file with this Court:

s/Renee Creswell  
Renee Creswell  
Lewis and Roca LLP